THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 26188 of 2000

Dated:18-08-2005

Between:

M.Chinnaiah S/o.M.Subbaiah
R/o.3/625, Raja Reddy Street,
Cuddapah District.

..... PETITIONER

AND

1 The A.P.S.R.T.C., Rep. by its Chairman & Managing Director Musheerabad, Hyderabad.
2 The A.P.S.R.T.C., Rep. by its Regional Manager, Cuddapah Region, Cuddapah District.
3 The A.P.S.R.T.C., Rep. by its Depot Manager, Cuddapah Depot, Cuddapah District.

.....RESPONDENTS

THE HONOURABLE SRI JUSTICE C.V.RAMULU

W.P.NO.26188 OF 2000

ORDER:

This writ petition is filed seeking a mandamus to declare the action of the second respondent in reinstating the workman afresh as Conductor and denying the continuity of service and other attendant benefits through the proceedings dated 23-10-2000 as arbitrary and illegal and consequently direct the respondents to grant the relief of continuity of service, full back wages and all other attendant benefits.

It is the case of the petitioner-workman that he was appointed as a Conductor in the service of the A.P.S.R.T.C. on 15-6-1979. He rendered more than 20 years of unblemished service. While so, his services were terminated with effect from 16-3-1999. Aggrieved by that, he filed an appeal before the competent authority and the same was rejected on 26-6-1999. He further filed a review petition before the second respondent and that was also rejected on 22-9-1999. Aggrieved by the same, he filed writ petition No.3993 of 2000 before this Court. The said writ petition is disposed of on 7-9-2000 as under:

"In the counter filed on behalf of the respondents it is stated that a regular enquiry was conducted and the petitioner was removed from service, but however with regard to the punishment imposed on the ADC there is no response in the counter and also the Circular issued in pursuance of Bi-party Settlement dated 24.7.1995 was not referred, wherein it is stated that the shortage of less than Rs.50/- should not be taken so serious as to warrant extreme punishment of dismissal from service.

I have considered the respective contentions of the learned counsel for the parties. I am not inclined to adjudicate the validity or otherwise of the order of removal passed by the authorities. But however with regard to the order passed by the appellate authority I find that the appellate authority has not considered these relevant aspects. The circular issued by the Corporation dated 3.2.1992 and 24.7.1995 were not kept in view while considering the appeal filed by the petitioner. It is also the case of the petitioner that he was meted out with discriminatory treatment and when the person who is found responsible for the irregularity was removed from service and in appeal he was reinstated, the petitioner also deserves the similar type of treatment and that he cannot be discriminated. I am not inclined to adjudicate these issues on merits. It is for the appellate authority to consider the same and pass appropriate orders.

Under these circumstances, I allow the Writ Petition to the limited extent and remand the matter back to the appellate authority for considering all the points raised by the petitioner in a proper perspective keeping in view the Circulars issued by the Corporation and also setting aside the punishment of removal of ADC. It is also open for the petitioner to make a further representation if he so chooses within a period of four (4) weeks from today. The appellate authority shall pass order within a period of two months from the date of receipt of a copy of this order. No costs."

In pursuance to the said orders of this court, the case of the workman was taken up for consideration and the Regional Manager, Kadapa region passed orders

on 23rd October,2000 directing the appointment of the workman as a fresh conductor duly observing all the formalities as per the rules in force.

The learned counsel for the petitioner strenuously contends that though this Court directed the respondents to have a fresh consideration of all the points raised by the workman in proper perspective keeping in view of the circulars issued by the Corporation, they have passed the impugned proceedings only granting the relief of fresh appointment denying the 20 long years of service rendered by the workman in the Corporation for all purposes. Once, the circulars as referred to above are taken into consideration, the only Assistant Depot Clerks who are responsible for maintenance of entries to be made in the way bills can be held guilty and not the workman. This aspect was not taken into consideration while passing the impugned proceedings. The learned counsel for the petitioner also strenuously contended that even assuming that the charges are proved, the punishment of denial of 20 years of service is shockingly disproportionate to that of the misconduct alleged and proved.

A detailed counter affidavit has been filed on behalf of the respondents 1 to 3 denying the allegations made by the workman and asserting that the appellate authority took a lenient view of the matter and directed fresh appointment of the workman and the same is neither arbitrary nor illegal and does not call for interference of this Court under Article 226 of the Constitution of India.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and also perused the impugned proceedings and other material made available on record.

At the outset, I am of the opinion that the second respondent erred in passing the order of fresh appointment and denying the total service of 20 years rendered by the workman in the Corporation. In fact, this court while disposing of the earlier writ petition in W.P.No.3993 of 2000 has categorically directed the second respondent to look into the matter afresh and deal with all the aspects raised by the petitioner before it. However, no such discussion has been made by the Regional Manager with regard to the circulars issued enumerating the responsibility of the Assistant Depot Clerks in the maintenance of way bills. Some how, in the guise of implementation of orders of this court, the second respondent passed impugned orders directing fresh appointment of the workman denying the 20 long years of service, but no reasons are furnished how the petitioner is entitled only for fresh

appointment and not for continuity of service and other benefits. The denial of continuity of service for 20 long years of service rendered by the workman is erroneous and very harsh punishment. Therefore, I am of the opinion that the workman is entitled for grant of relief of continuity of service. However, he is not entitled for any attendant benefits like notional increments etc and also not entitled for back wages.

In the result, the writ petition is allowed and the respondent-management is directed to reinstate the petitioner with continuity of service but without any back wages and without any attendant benefits such as notional increments etc. No order as to costs.

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C.V.RAMULU,J

18-08-2005

Stp